



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0305; FRL-9956-52-Region 9]

Approval of California Air Plan Revisions, Ventura County Air Pollution Control District; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Ventura County Air Pollution Control District (VCAPCD or District) portion of the California State Implementation Plan (SIP). The State of California (State) is required under the Clean Air Act (CAA or Act) to adopt and implement a SIP-approved Prevention of Significant Deterioration (PSD) permit program. We are approving SIP revisions that would incorporate a PSD rule for the VCAPCD into the SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources in attainment and unclassifiable areas within the District.

DATES: This rule will be effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2016-0305. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard

copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ya-Ting (Sheila) Tsai, EPA Region IX, (415) 972-3328, *Tsai.Ya-Ting@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

Table 1 lists the two VCAPCD rules addressed by our proposed action and this final action. On September 23, 2016, the EPA proposed to approve VCAPCD Rule 26.13 into the California SIP and to remove VCAPCD Rule 26.10 from the California SIP. (See 81 FR 65595.)

TABLE 1

Rule #	Rule Title	Action
26.10	New Source Review – Prevention of Significant Deterioration	Remove
26.13	New Source Review – Prevention of Significant Deterioration (PSD)	Approve

We proposed these actions because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our

evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA's Final Action

No comments were submitted on the EPA's proposed action. Therefore, as authorized by section 110(k)(3) of the Act, the EPA is approving VCAPCD Rule 26.13 into the California SIP and removing VCAPCD Rule 26.10 from the California SIP, consistent with our proposed action.

This SIP revision will be codified in 40 CFR 52.220 by incorporating by reference Rule 26.13 as listed in Table 1 and deleting without replacement Rule 26.10 as listed in Table 1. We are also revising 40 CFR 52.270 to reflect that upon the effective date of this final rule, the VCAPCD will have a SIP-approved PSD program and will no longer be subject to the Federal Implementation Plan (FIP) at 40 CFR 52.21 for the PSD program. This SIP revision provides a federally approved and enforceable mechanism for the VCAPCD to issue pre-construction PSD permits for certain new and modified major stationary sources subject to PSD review within the District.

As discussed in our proposal, the VCAPCD requested approval to exercise its authority to administer the PSD program with respect to those sources located in the District that have existing PSD permits issued by the EPA, including authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (*e.g.*, modifications, amendments, or revisions of any nature), and authority to enforce such permits. Pursuant to the criteria in section 110(a)(2)(E)(i) of the

CAA, we have determined that the VCAPCD has the authority, personnel, and funding to implement the PSD program within the District for existing EPA-issued PSD permits and therefore are transferring authority for such permits to the VCAPCD concurrent with the effective date of our approval of the VCAPCD's PSD program into the SIP. Our revisions to 40 CFR 52.270 will reflect this transfer of authority for existing PSD permits. The EPA intends to provide a copy of each such permit to the VCAPCD.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the VCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 2, 2016.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(G)(2) and (c)(474)(i)(D) to read as follows:

§52.220 Identification of plan – in part.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(G) * * *

(2) Previously approved on December 7, 2000, in paragraph (c)(255)(i)(G)(1) of this section and now deleted without replacement Rule 26.10.

* * * * *

(474) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(1) Rule 26.13, “New Source Review – Prevention of Significant Deterioration (PSD),” revised on November 10, 2015.

* * * * *

3. Section 52.270 is amended by adding paragraph (b)(17) to read as follows:

§ 52.270 Significant deterioration of air quality.

* * * * *

(b) * * *

(17) The PSD program for the Ventura County Air Pollution Control District (VCAPCD), as incorporated by reference in §52.220(c)(474)(i)(D)(L), is approved under part C, subpart 1, of the Clean Air Act. For PSD permits previously issued by EPA pursuant to §52.21 to sources located in the VCAPCD, this approval includes the authority for the VCAPCD to conduct general administration of these existing permits, authority to process and issue any and all subsequent permit actions relating to such permits, and authority to enforce such permits.

[FR Doc. 2017-04680 Filed: 3/9/2017 8:45 am; Publication Date: 3/10/2017]